

Illinois Anti-Predatory Lending Database Program

Doc#: 1924655018 Fee: \$98.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 09/03/2019 09:18 AM Pg: 1 of 39

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: **PIN:** 13-29-207-007-0000

Address:

Street: 5601-5611 W. Belmont Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60634

Lender: Fifth Third Bank

Borrower: River Warehouse LLC

Loan / Mortgage Amount: \$5,075,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

FIDELITY NATIONAL TITLE

CH19014786

2/3

Certificate number: 7BD09459-E243-454B-B5DF-86EC0F7A2579

Execution date: 8/13/2019

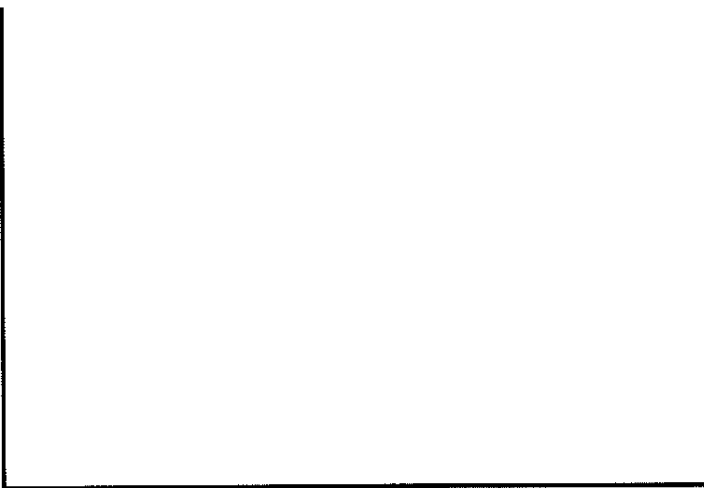
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THIS INSTRUMENT PREPARED BY:

Bennett L. Cohen
Cohen, Salk & Huvar, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062

AND AFTER RECORDING MAIL TO:

Barbara Hennessy, Loan Coordinator
Fifth Third Bank
6111 N. River Road
Rosemont, Illinois 60018



Property
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MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

THIS MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING (as the same may be amended, restated, supplemented or modified from time to time, the "Mortgage") made as of this 13th day of August, 2019 by RIVER WAREHOUSE LLC, an Illinois limited liability company (herein called the "Mortgagor") whose address is 1010 Hillside Drive, Northbrook, Illinois 60062, to FIFTH THIRD BANK, an Ohio Banking Corporation (herein together with its successors and assigns, including each and every from time to time holder of the Notes hereinafter referred to, called the "Mortgagee") whose address is 222 S. Riverside Plaza, Chicago, Illinois 60606.

WHEREAS, the Mortgagor has executed and delivered to the Mortgagee the following described promissory notes: (i) a Promissory Note of even date herewith in the principal amount of ONE MILLION EIGHT HUNDRED THOUSAND AND 00/100 DOLLARS (\$1,800,000.00) evidencing a \$1,800,000.00 first mortgage loan being made by Mortgagee to Mortgagor (such promissory note and any and all extensions, renewals, amendments, modifications, refinancings, conversions or consolidations thereof or thereto, shall be called the "Belmont Note") and payable to the order of Mortgagee in monthly installments of principal plus interest as therein described (such interest being calculated at the applicable adjustable rate described in the Belmont Note, the terms of which Belmont Note are incorporated herein by reference as if fully set forth herein) with a final balloon payment due on the maturity date set forth in the Belmont Note (which maturity date may be extended by the Mortgagee from time to time in its sole discretion); (ii) a Promissory Note of even date herewith in the principal amount of NINE HUNDRED SEVENTY FIVE THOUSAND AND 00/100 DOLLARS (\$975,000.00) evidencing a \$975,000.00 first mortgage loan being made by Mortgagee to Mortgagor (such promissory note and any and all extensions, renewals, amendments, modifications, refinancings, conversions or consolidations thereof or thereto, shall be called the "Augusta Note") and payable to the order of Mortgagee in monthly installments of principal plus interest as therein described (such interest being calculated at the applicable adjustable rate described in the Augusta Note, the terms of which Augusta Note are incorporated herein by reference as if fully set forth herein) with a final balloon payment due on the maturity date set forth in the Augusta Note (which maturity date may be extended by the Mortgagee from time to time in its sole discretion); and (iii) a Promissory Note of even date herewith in the principal amount of TWO MILLION THREE HUNDRED THOUSAND AND 00/100 DOLLARS (\$2,300,000.00) evidencing a \$2,300,000.00 first mortgage loan being made by Mortgagee to Mortgagor (such promissory note and any and all extensions, renewals, amendments, modifications, refinancings, conversions or consolidations thereof or thereto, shall be called the "Western Note") and

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payable to the order of Mortgagee in monthly installments of principal plus interest as therein described (such interest being calculated at the applicable adjustable rate described in the Western Note, the terms of which Western Note are incorporated herein by reference as if fully set forth herein) with a final balloon payment due on the maturity date set forth in the Western Note (which maturity date may be extended by the Mortgagee from time to time in its sole discretion); and

WHEREAS, the Belmont Note, the Augusta Note, the Western Note and any and all extensions, renewals, amendments, modifications, refinancings, conversions or consolidations of the Belmont Note, the Augusta Note and/or the Western Note, shall collectively herein be called the “Notes” and singularly, a “Note”; and

WHEREAS, the loans evidenced by the Notes, in the respective principal amounts of \$1,800,000.00, \$975,000.00 and \$2,300,000.00, and any and all extensions, renewals, amendments, modifications, refinancings, conversions or consolidations thereof or thereto, shall collectively herein be called the “Loans” and singularly, a “Loan”; and

WHEREAS, in connection with the Notes, Mortgagor may now or hereafter enter into (or may already have entered into) one or more Rate Management Agreements (as hereinafter defined); and

WHEREAS, the term “Rate Management Agreement” as used herein singularly mean any transaction (including an agreement with respect thereto) now existing or hereafter entered into by Mortgagor in connection with the Notes, which is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures, and any other agreement or arrangement designed to protect Mortgagor against fluctuations in interest rates, currency exchange rates or commodity prices; and

WHEREAS, the term “Rate Management Obligations” as used herein means any obligation or liability of Mortgagor to the Mortgagee or an affiliate or designee of the Mortgagee, whether absolute or contingent and howsoever and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (i) any Rate Management Agreement, and (ii) any and all cancellations, buy backs, reversals, terminations or assignments of any Rate Management Agreement; and

WHEREAS, this Mortgage is being executed to secure all of the following indebtedness and obligations (collectively, the “Indebtedness Hereby Secured”); (i) the payment of the Notes, and all interest (including any interest or other amounts accruing thereon after maturity, or after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to Mortgagor, whether or not a claim for post-filing or post-petition interest or other amounts is allowed in such proceeding), late charges, prepayment fee (if any), and all other indebtedness evidenced by or owing under the Notes (and any extension, renewal, modification, amendment, refinancing, consolidation or conversion thereof or thereto), or any of the other Loan Documents (as hereinafter defined), including without limitation, the payment of all Rate Management Obligations and any other amounts now or hereafter owed by Mortgagor to Mortgagee under the Rate Management Agreements; (ii) the payment of the Poplar Note (as defined in Section 16E) and all interest (including any interest or other amounts accruing thereon after maturity, or after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to Poplar Creek Plaza, LLC, whether or not a claim

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for post-filing or post-petition interest or other amounts is allowed in such proceeding), late charges, prepayment fee (if any), and all other indebtedness evidenced by or owing under the Poplar Note (and any extension, renewal, modification, amendment, refinancing, consolidation or conversion thereof or thereto) or any loan documents executed in connection therewith, (iii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor, Poplar Creek Plaza LLC or any other obligor to or benefiting Mortgagee which are evidenced or secured by or otherwise provided in the Notes, the Poplar Note, this Mortgage or any of the other Loan Documents; and (iv) the reimbursement to Mortgagee of any and all sums incurred, expended or advanced by Mortgagee pursuant to any term or provision hereof or constituting additional indebtedness under or secured by this Mortgage or any of the other Loan Documents with interest thereon as provided herein or therein, including, without limitation, all protective advances made by Mortgagee.

NOW, THEREFORE, THIS MORTGAGE WITNESSETH:

That to secure the payment of the principal of and interest and premium, if any, on the Notes and Poplar Note according to their terms and to secure the payment of all other Indebtedness Hereby Secured (IT BEING ACKNOWLEDGED BY MORTGAGOR AND MORTGAGEE THAT THIS MORTGAGE SECURES THE NOTES AND THE POPLAR NOTE, INCLUDING ANY AND ALL EXTENSIONS, RENEWALS, AMENDMENTS, REFINANCINGS, MODIFICATIONS, CONVERSIONS OR CONSOLIDATIONS OF THE NOTES AND THE POPLAR NOTE, IN WHOLE OR IN PART, AND THAT NEITHER THE NOTES OR THE POPLAR NOTE NOR ANY SUBSEQUENT EXTENSIONS, RENEWALS, AMENDMENTS, REFINANCINGS, MODIFICATIONS, CONVERSIONS OR CONSOLIDATIONS OF THE NOTES OR THE POPLAR NOTE, IN WHOLE OR IN PART, SHALL IMPAIR THE VALIDITY OR PRIORITY OF THIS MORTGAGE, NOR RELEASE THE MORTGAGOR FROM ANY OF ITS OBLIGATIONS HEREUNDER OR UNDER ANY OF THE OTHER LOAN DOCUMENTS SIGNED BY MORTGAGOR) and the performance and observance of all the covenants, provisions and agreements herein and in the Notes and Poplar Note contained, and in consideration of the premises, and for other good and valuable considerations, the receipt and sufficiency of all of which is hereby acknowledged by the Mortgagor, the Mortgagor does hereby **RELEASE, REMISE, ALIENATE, MORTGAGE, CONVEY** unto the Mortgagee, and **GRANT** the Mortgagee a security interest in, all of Mortgagor's sundry rights, interests and property hereinafter described (all herein together called the "Premises"):

- (a) All of the real estate (herein called the "Real Estate") described in **Exhibit A** attached hereto and made a part hereof;
- (b) All buildings and other improvements now or at any time hereafter constructed or erected upon or located at the Real Estate, together with and including, but not limited to, all fixtures, equipment, machinery, billboards, appliances and other articles and attachments now or hereafter forming part of, attached to or incorporated in any such building or improvements (all herein generally called the "Improvements");
- (c) All privileges, reservations, allowances, hereditaments, tenements and appurtenances now or hereafter belonging or pertaining to the Real Estate or Improvements;
- (d) All leasehold estates, right, title and interest of Mortgagor in any and all leases, subleases, licenses, arrangements or agreements relating to the use and occupancy of the Real Estate and Improvements or any portion thereof, now or hereafter existing or entered into (all herein generally called "Leases"), together with all cash or security deposits, advance

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rentals and other **deposits** or payments of similar nature given in connection with any Leases;

- (e) All rents, issues, **profits**, royalties, income, avails, and **other** benefits now or hereafter derived from the Real Estate and Improvements, under Leases or otherwise (all herein generally called "**Rents**"), subject to the right, power and authority given to the Mortgagor in the Assignment (as defined in Section 25 hereof), to **collect** and apply the Rents;
- (f) All right, title and **interest** of Mortgagor in and to all **options** to purchase or lease the Real Estate or Improvements or any portion thereof or **interest** therein, or any other rights, interests or **greater estates** in the rights and properties **comprising** the Premises, now owned or hereafter **acquired** by Mortgagor;
- (g) Any interests, **estates** or other claims, both in law and in **equity**, which Mortgagor now has or may hereafter **acquire** in the Real Estate and Improvements or other rights, interests or properties **comprising** the Premises now owned or hereafter **acquired**;
- (h) All right, title and **interest** of Mortgagor now owned or hereafter **acquired** in and to (i) any land or vaults **lying** within the right-of-way of any **street** or alley, open or proposed, adjoining the Real Estate; (ii) any and all alleys, sidewalks, strips and gores of land adjacent to or used in **connection** with the Real Estate and Improvements; (iii) any and all rights and interests of every **nature** or nature forming part of or used in **connection** with the Real Estate and/or the operation and maintenance of the Improvements; (iv) all easements, rights-of-way and rights **used** in **connection** with the Real Estate or Improvements or as a means of access thereto; and (v) all water rights and shares of **stock** evidencing the same;
- (i) All right, title and **interest** of Mortgagor in and to all **tangible** personal property (herein called "**Personal Property**"), owned by Mortgagor and **now** or at any time hereafter located in, on or at the Real Estate or Improvements or used or useful in connection therewith, including, but **not limited** to:
- (i) all **furniture**, furnishings and equipment **furnished** by Mortgagor to tenants of the Real Estate or Improvements;
 - (ii) all **building materials** and equipment located **upon** the Real Estate and intended to be **incorporated** in the Improvements now or hereafter to be constructed thereon, whether **or not** yet incorporated in such Improvements;
 - (iii) all **machines**, machinery, fixtures, apparatus, equipment or articles used in supplying **heating**, gas, electricity, air-conditioning, water, light, power, sprinkler protection, waste removal, refrigeration and **ventilation**, and all fire sprinklers, alarm systems, electronic monitoring equipment and devices;
 - (iv) all window or structural cleaning rigs, **maintenance** equipment relating to exclusion of vermin or insects and removal of **dust**, refuse or garbage;
 - (v) all lobby and other indoor and outdoor **furniture**, including tables, chairs, planters, desks, **sofas**, shelves, lockers and cabinets, **wall** beds, wall safes, and other furnishings;

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- (vi) all rugs, carpets and other floor coverings, drapery rods and brackets, awnings, window shades, venetian blinds and curtains;
- (vii) all lamps, chandeliers and other lighting fixtures;
- (viii) all recreational equipment and materials;
- (ix) all office furniture, equipment and supplies;
- (x) all kitchen equipment, including refrigerators, ovens, dishwashers, range hoods and exhaust systems and disposal units;
- (xi) all laundry equipment, including washers and dryers;
- (xii) all tractors, mowers, sweepers, snow removal equipment and other equipment used in maintenance of exterior portions of the Real Estate; and
- (xiii) all maintenance supplies and inventories;

provided that the enumeration of any specific articles of Personal Property set forth above shall in no way exclude or be held to exclude any items of property not specifically enumerated; but provided that there shall be excluded from and not included within the term "Personal Property" as used herein and hereby mortgaged and conveyed, any equipment, trade fixtures, furniture, furnishings or other property of tenants of the Premises;

- (j) All the estate, interest, right, title or other claim or demand which Mortgagor now has or may hereafter have or acquire with respect to (i) the proceeds of insurance in effect with respect to the Premises and (ii) any and all awards, claims for damages and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding, or by any proceeding, or purchase in lieu thereof, of the whole or any part of the Premises, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for severance damages (all herein generally called "Awards");

TO HAVE AND TO HOLD all and sundry the Premises hereby mortgaged and conveyed or intended so to be, together with the rents, issues and profits thereof, unto the Mortgagee forever, for the uses and purposes herein set forth, together with all right to retain possession of the Premises after the occurrence of any Event of Default (as defined in Section 19 hereof);

FOR THE PURPOSE OF SECURING:

- (a) Payment of the indebtedness with interest thereon evidenced by the Notes and the Poplar Note (plus all other sums payable thereunder) and any and all extensions, refinancings, amendments, renewals, modifications, consolidations and conversions thereof or thereto, and all other Indebtedness Hereby Secured;
- (b) Performance and observance by Mortgagor of all of the terms, provisions, covenants and agreements on Mortgagor's part to be performed and observed under this Mortgage, the Assignment and any of the other Loan Documents executed by Mortgagor;

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- (c) Performance and observance by the Mortgagor and any other guarantor, obligor or grantor of all of the terms, provisions, covenants and agreements on the Mortgagor's or Poplar Creek Plaza, LLC's (or such other guarantors', obligors' or grantors') part to be performed or observed under all other loan documents entered into by and between Mortgagee and Mortgagor or Mortgagee and Poplar Creek Plaza, LLC (or such other guarantors, obligors or grantors) in connection with the Loans. The Notes, this Mortgage, the Assignment, the Rate Management Agreements and all such other loan documents securing the Loans or the Poplar Note or executed in connection with the Loans or the Poplar Note shall collectively herein be called the "Loan Documents"; and
- (d) Performance by any guarantor of its or his obligations under any guaranty or other instrument given to further secure the payment of any of the Indebtedness Hereby Secured, or any portion thereof, or the performance of any obligation secured hereby.

PROVIDED, NEVERTHELESS, and these presents are upon the express condition that if all of the Indebtedness Hereby Secured shall be duly and punctually paid and all the terms, provisions, conditions and agreements herein contained on the part of the Mortgagor to be performed or observed shall be strictly performed and observed, then Mortgagee shall release this Mortgage at the expense of Mortgagor.

AND IT IS FURTHER AGREED THAT:

1. Payment of Indebtedness. The Mortgagor will promptly pay each and every installment of the principal of and interest and premium, if any, on the Notes, and all other Indebtedness Hereby Secured payable by the Mortgagor, as the same becomes due. The Mortgagor will duly perform and observe all of the covenants, agreements and provisions herein contained on the part of Mortgagor to be performed and observed.

2. Maintenance, Repair, Restoration, Prior Liens, Parking. The Mortgagor will:

- (a) promptly repair, restore or rebuild any Improvements now or hereafter on the Premises which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for the purpose;
- (b) keep the Premises in good condition and repair, without waste, and free from mechanics' liens, materialmen's or like liens or claims, or any other liens or claims for lien (other than liens in favor of Mortgagee);
- (c) pay, when due, any indebtedness which may be secured by a lien or charge on the Premises on a parity with or superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to the Mortgagee;
- (d) complete, within a reasonable time, any Improvements now or at any time in the process of erection upon the Premises;
- (e) comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof;
- (f) make no material alterations in the Premises, except as required by law or municipal ordinance or otherwise consented to by Mortgagee in writing;

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- (g) suffer or permit no change in the general nature of the occupancy of the Premises without the Mortgagee's prior written consent;
- (h) pay when due all operating costs of the Premises;
- (i) not initiate or acquiesce in any zoning reclassification with respect to the Premises, without the Mortgagee's prior written consent; and
- (j) provide, improve, grade, surface and thereafter maintain, clean, repair, police and adequately light parking areas within the Premises as may be required by law, ordinance or regulation, together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof.

3. Taxes. The Mortgagor will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), whether or not assessed against the Mortgagor, if applicable to the Premises or any interest therein, or the Indebtedness Hereby Secured, or any obligation or agreement secured hereby; and Mortgagor will, upon written request, furnish to the Mortgagee duplicate receipts therefor; provided that the Mortgagor may contest the amount or propriety of any Taxes in accordance with the provisions of Section 29 hereof; provided that (a) in the event that any law or court decree has the effect of deducting from the value of land for the purposes of taxation any lien thereon, or imposing upon the Mortgagee the payment in whole or any part of the Taxes or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or in the interest of the Mortgagee in the Premises or the manner of collection of Taxes, so as to affect this Mortgage or the Indebtedness Hereby Secured or the holder thereof, then, and in any such event, the Mortgagor upon demand by the Mortgagee, will pay such Taxes, or reimburse the Mortgagee therefor and (b) nothing in this Section 3 contained shall require the Mortgagor to pay any income, franchise or excise tax imposed upon the Mortgagee.

4. Insurance Coverage. Mortgagor shall at all times keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Premises insured against loss or damage by fire and such other hazards as may reasonably be required by Mortgagee, in accordance with the terms, coverages and provisions described on **Exhibit B** attached hereto and made a part hereof, and such other insurance as Mortgagee may from time to time reasonably require. Unless Mortgagor provides Mortgagee evidence of the insurance coverages required hereunder, Mortgagee may purchase insurance at Mortgagor's expense to cover Mortgagee's interest in the Premises. The insurance may, but need not, protect Mortgagor's interest. The coverages that Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Premises. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required by this Mortgage. If Mortgagee purchases insurance for the Premises, Mortgagor will be responsible for the costs of such insurance, including, without limitation, interest and any other charges which Mortgagee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Indebtedness Hereby Secured. The cost of the insurance may be more than the cost of insurance Mortgagor may be able to obtain on its own. Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon as the loss payee or an additional insured as applicable, under a standard mortgage clause acceptable to Mortgagee and such separate insurance is otherwise acceptable to Mortgagee.

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5. Insurance Policies. All policies of insurance to be maintained and provided as required by Section 4 hereof shall:

- (a) comply with the **terms**, coverages and provisions described on **Exhibit B** attached hereto and made a part hereof;
- (b) be written in amounts sufficient to prevent Mortgagor from becoming a coinsurer;
- (c) shall provide for **claims** to be made on a per occurrence basis; and
- (d) shall have deductibles no greater than \$10,000.

Mortgagor will deliver all policies and insurance certificates in form acceptable to Mortgagee, and including additional and renewal policies to Mortgagee, and in case of insurance policies about to expire, the Mortgagor will deliver renewal policies and/or certificates not less than ten (10) business days prior to the respective dates of expiration.

6. Deposits for Taxes. In order to assure the payment of Taxes payable with respect to the Premises as and when the same shall become due and payable:

- (a) Mortgagor shall deposit with the Mortgagee on each monthly payment date set forth in the Belmont Note (the terms of which are incorporated herein by reference), commencing with the date the first payment of interest and/or principal and interest shall become due on the Belmont Note, an amount equal to One-Twelfth (1/12) of the Taxes next to become due upon the Premises; provided that, in the case of the first such deposit, there shall be deposited in addition an amount as estimated by Mortgagee which, when added to monthly deposits to be made thereafter as provided for herein, shall assure to Mortgagee's satisfaction that there will be sufficient funds on deposit to pay Taxes as they come due;

provided that the amount of such deposits (herein generally called "Tax Deposits") shall be based upon Mortgagee's reasonable estimate as to the amount of Taxes next to be payable; and all Tax Deposits shall be held by the Mortgagee in a non-interest bearing account for the benefit of Mortgagor.

- (b) The Mortgagee will, out of the Tax Deposits, upon the presentation to the Mortgagee by the Mortgagor of the bills therefor, pay the Taxes or will, upon presentation of receipted bills therefor, reimburse the Mortgagor for such payments made by the Mortgagor. If the total Tax Deposits on hand shall not be sufficient to pay all of the Taxes when the same shall become due, then the Mortgagor shall pay to the Mortgagee on demand any amount necessary to make up the deficiency. If the total of such Deposits exceed the amount required to pay the Taxes, such excess shall be credited on subsequent payments to be made for such items.
- (c) Upon the occurrence of an Event of Default, the Mortgagee may, at its option, without being required so to do, apply any Tax Deposits on hand on any of the Indebtedness Hereby Secured, in such order and manner as the Mortgagee may elect, and Mortgagor shall promptly replenish such Tax Deposits applied toward the Indebtedness Hereby Secured. When the Indebtedness Hereby Secured has been fully paid, then any remaining Tax Deposits shall be paid to the Mortgagor. All Tax Deposits are hereby pledged by Mortgagor to Mortgagee (and Mortgagor hereby grants Mortgagee a security interest in all

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Tax Deposits) as **additional security** for the Indebtedness Hereby Secured, and the Tax Deposits shall be **held in trust** to be irrevocably applied for the purposes for which made as herein provided, and shall not be subject to the direction or control of the Mortgagee.

- (d) Notwithstanding anything to the contrary herein contained, the Mortgagee shall not be liable for any **failure** to apply to the payment of Taxes any amounts deposited as Tax Deposits unless the Mortgagee, while no Event of Default exists hereunder and within a reasonable time prior to the due date, shall have requested the Mortgagee in writing to make application of such Deposits on hand to the payment of the particular Taxes for the payment of which such Deposits were made, accompanied by the bills therefor.

7. Proceeds of Insurance. The Mortgagee will give the Mortgagee prompt notice of any damage to or destruction of the Premises, and,

- (a) In case of loss covered by policies of insurance, the Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such policies without the consent of the Mortgagee, or (ii) allow the Mortgagee to agree with the insurance company or companies on the amount to be paid upon the loss; provided that the Mortgagee may itself adjust losses aggregating not in excess of Twenty Thousand Dollars (\$20,000.00), and provided further that in any case the Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds; and the expenses incurred by the Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness Hereby Secured, and shall be reimbursed to the Mortgagee upon demand;
- (b) In the event of any insured damage to or destruction of the Premises or any part thereof (herein called an "Insured Casualty") and if in the reasonable judgment of the Mortgagee, the Premises can be restored to an architectural and economic unit of the same character and not less valuable than the same was prior to the Insured Casualty within one year following the Insured Casualty, but in any event within six (6) months prior to the maturity date of the Belmont Note, and adequately securing the outstanding balance of the Indebtedness Hereby Secured and the insurers do not deny liability to the insured, then, if no Event of Default shall have occurred and be then continuing the proceeds of insurance shall be applied to reimburse the Mortgagee for the cost of restoring, repairing, replacing or rebuilding (herein generally called "Restoring") the Premises or any part thereof subject to Insured Casualty, as provided for in Section 9 hereof;
- (c) If in the reasonable judgment of Mortgagee the Premises cannot be restored to an architectural and economic unit as provided for in Subsection (b) above (including the time period specified therein), then at any time from and after the Insured Casualty, upon sixty (60) days written notice to Mortgagee, Mortgagee may declare the entire balance of the Indebtedness Hereby Secured to be, and at the expiration of such sixty (60) day period the Indebtedness Hereby Secured shall be and become, immediately due and payable;
- (d) Except as provided for in Subsection (b) of this Section 7, Mortgagee shall apply the proceeds of insurance (including amounts not required for Restoring effected in accordance with Subsection (b) above) consequent upon any Insured Casualty toward the Indebtedness Hereby Secured, in such order or manner as the Mortgagee may elect;

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- (e) In the event that proceeds of insurance, if any, shall be made available to the Mortgagor for the restoring of the Premises, Mortgagor hereby covenants to restore the same so that the Premises will be of at least equal value and of substantially the same character as prior to such damage or destruction; all to be effected in accordance with plans and specifications to be first submitted to and approved by the Mortgagee;
- (f) Any portion of the insurance proceeds remaining after payment in full of the Indebtedness Hereby Secured shall be paid to Mortgagor or as ordered by a court of competent jurisdiction;
- (g) No interest shall be payable by Mortgagee on account of any insurance proceeds at any time held by Mortgagee.

8. Condemnation. The Mortgagor will give Mortgagee prompt notice of any proceedings, instituted or threatened, seeking condemnation or taking by eminent domain or any like process (herein generally called a "Taking"), of all or any part of the Premises, including damages to grade; and,

- (a) Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any Award consequent upon any Taking;
- (b) If in the reasonable judgment of the Mortgagee the Premises can be restored, within one year following the Taking, but in any event within six (6) months prior to the maturity date of the Belmont Note, to an architectural and economic unit of the same character and not less valuable than the Premises prior to such Taking and adequately securing the outstanding balance of the Indebtedness Hereby Secured, then if no Event of Default shall have occurred and be then continuing, the Award shall be applied to reimburse Mortgagor for the cost of Restoring the portion of the Premises remaining after such Taking, as provided for in Section 9 hereof;
- (c) If in the reasonable judgment of Mortgagee the Premises cannot be restored to an architectural and economic unit as provided for in Subsection (b) above (including the time period specified therein), then at any time from and after the Taking, upon sixty (60) days written notice to Mortgagor, Mortgagee may declare the entire balance of the Indebtedness Hereby Secured to be, and at the expiration of such sixty (60) day period the Indebtedness Hereby Secured shall be and become, immediately due and payable;
- (d) Except as provided for in Subsection (b) of this Section 8, Mortgagee shall apply any Award (including the amount not required for Restoring effected in accordance with Subsection (b) above) toward the Indebtedness Hereby Secured in such order or manner as Mortgagee may elect;
- (e) In the event that any Award shall be made available to the Mortgagor for Restoring the portion of the Premises remaining after a Taking, Mortgagor hereby covenants to restore the remaining portion of the Premises so that it will be of at least equal value and of substantially the same character as prior to such Taking, all to be effected in accordance with plans and specifications to be first submitted to and approved by Mortgagee;
- (f) Any portion of any Award remaining after payment in full of the Indebtedness Hereby Secured shall be paid to Mortgagor or as ordered by a court of competent jurisdiction;

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- (g) No interest shall be payable by Mortgagee on account of any Award at any time held by Mortgagee.

9. Disbursement of Insurance Proceeds and Condemnation Awards. In the event the Mortgagor is entitled to reimbursement out of insurance proceeds or any Award held by the Mortgagee, such proceeds shall be disbursed from time to time upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion of the Restoring, with funds (or assurances satisfactory to the Mortgagee that such funds are available) sufficient in addition to the proceeds of insurance or Award, to complete the proposed Restoring, and with such architect's certificate, waivers of lien, contractor's sworn statements and such other evidence of cost and of payment as the Mortgagee may reasonably require and approve; and the Mortgagee may, in any event, require that all plans and specifications for such Restoring be submitted to and approved by the Mortgagee prior to commencement of work. No payment made prior to the final completion of the Restoring shall exceed ninety percent (90%) of the value of the work performed from time to time; funds other than proceeds of insurance or the Award shall be disbursed prior to disbursement of such proceeds, and at all times the undisbursed balance of such proceeds remaining in the hands of the Mortgagee, together with funds deposited for the purpose or irrevocably committed to the satisfaction of the Mortgagee by or on behalf of the Mortgagor for the purpose, shall be at least sufficient in the reasonable judgment of the Mortgagee to pay for the cost of completion of the Restoring, free and clear of all liens or claims for lien.

10. Stamp Tax. If, by the laws of the United States of America, or of any state having jurisdiction over the Mortgagor, any tax is due or becomes due in respect of the issuance of any Note or this Mortgage, the Mortgagor shall pay such tax in the manner required by such law.

11. Prepayment Privilege. Mortgagor shall have the privilege of making prepayments on the principal of the Notes (in addition to the required payments thereunder) in accordance with the terms and conditions, if any, set forth in the Notes or any related Rate Management Agreement, but not otherwise.

12. Effect of Extensions of Time, Amendments on Junior Liens and Others. If the payment of the Indebtedness Hereby Secured, or any part thereof, be extended or varied, or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability, in any, and the lien, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding any such extensions, variation or release. Any person, firm or corporation taking a junior mortgage or other lien upon the Premises or any interest therein, shall take the said lien subject to the rights of the Mortgagee herein to amend, modify and supplement this Mortgage, the Notes, the Assignment and/or any of the other Loan Documents, and to vary the rate of interest and the method of computing the same, and to impose additional fees and other charges, and to extend the maturity of the Indebtedness Hereby Secured, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien. Nothing in this Section contained shall be construed as waiving any provision of Section 7 hereof which provides, among other things, that it shall constitute an Event of Default if the Premises shall be sold, conveyed or encumbered.

13. Effect of Changes in Tax Laws. In the event of the enactment after the date hereof by any legislative authority having jurisdiction of the Premises of any law deducting from the value of land for the purposes of taxation, any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of mortgage or debts secured by mortgages or the Mortgagee's interest in the Premises, or the method of collecting taxes, so as to affect this Mortgage or the Indebtedness Hereby

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Secured, or the holder thereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided that if in the opinion of counsel for the Mortgagee the payment by Mortgagor of any such taxes or assessments shall be unlawful, then the Mortgagee may, by notice to the Mortgagor, declare the entire principal balance of the Indebtedness Hereby Secured to be due and payable on a date specified in such notice not less than 180 days after the date of such notice, and the Indebtedness Hereby Secured shall then be due and payable without premium or penalty on the date so specified in such notice.

14. Mortgagee's Performance of Mortgagor's Obligations. In case of an Event of Default, the Mortgagee either before or after acceleration of the Indebtedness Hereby Secured or the foreclosure of the lien hereof and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein which is required of the Mortgagor (whether or not the Mortgagor is personally liable therefor) in any form and manner deemed expedient to the Mortgagee; and the Mortgagee may, but shall not be required to make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises, or contest any tax or assessment, and may, but shall not be required to, complete construction, furnishing and equipping of the Improvements upon the Premises and rent, operate and manage the Premises and such Improvements and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Premises and Improvements shall be operational and usable for their intended purposes. All monies paid for any of the purposes herein authorized, and all expenses paid or incurred in connection therewith, including attorney's fees and any other monies advanced by the Mortgagee to protect the Premises and the lien hereof, or to complete construction, furnishing and equipping or to rent, operate and manage the Premises and such Improvements or to pay any such operating costs and expenses thereof or to keep the Premises and Improvements operational and usable for their intended purposes, shall be so much additional Indebtedness Hereby Secured, whether or not they exceed the amount of the Notes, and shall become immediately due and payable without notice, and with interest thereon calculated at the default rate specified in the Notes (herein called the "Default Rate"). Inaction of the Mortgagee shall never be considered a waiver of any right accruing to it on account of any Event of Default. The Mortgagor, in making any payment hereby authorized (a) relating to taxes and assessments, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (c) in connection with the completion of construction, furnishing or equipping of the Improvements or the Premises or the rental, operation or management of the Premises or the payment of operating costs and expenses thereof, Mortgagee may do so in such amounts and to such persons as Mortgagee may deem appropriate and may enter into such contracts therefor as Mortgagee may deem appropriate or may perform the same itself.

15. Inspection of Premises. The Mortgagee shall have the right to inspect the Premises at all reasonable times upon twenty-four hours prior written notice (except that no such prior notice shall be required if an Event of Default shall have occurred and be continuing), and access thereto shall be permitted for that purpose.

16A. Maintenance of Operating Accounts. Mortgagor covenants to Mortgagee that, for so long as the Notes or any other Indebtedness Hereby Secured remains unpaid, Mortgagee shall be the primary depository bank for all deposit and operating account(s) of the Mortgagor.

16B. Representations and Warranties: Mortgagor hereby represents and warrants to the Mortgagee that:

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- a. The Mortgagor is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Illinois. The Mortgagor has the full power and authority to own and operate its properties and to carry on its business as now being and hereafter proposed to be conducted, and to enter into and perform all of its obligations under this Mortgage, the Notes and all other Loan Documents executed by it. The execution, delivery and performance by the Mortgagor of this Mortgage, the Notes and all other Loan Documents executed by it have been duly authorized by all necessary limited liability company action and will not violate any provision of law or Mortgagor's articles of organization or operating agreement, or result in the breach of or constitute a default or require any consent under, or result in the creation of any lien, charge, or encumbrance upon any property or assets of Mortgagor (except liens in favor of Mortgagee) pursuant to any indenture or other agreement or instrument to which Mortgagor is a party or by which Mortgagor or its property may be bound or affected. This Mortgage, the Notes and all other Loan Documents executed and delivered by Mortgagor are the legal, valid and binding obligations of Mortgagor enforceable against Mortgagor in accordance with their respective terms. No authorization, approval or other action by, and no notice to or filing with, any governmental authority that have not already been taken or made and which are in full force and effect, is required for the Mortgagor's execution, delivery or performance of this Mortgage, the Notes or the other Loan Documents executed by it;
- b. As of the date hereof, there has been no material change in the financial condition of Mortgagor or any guarantor from that set forth in Mortgagor's most recent financial statement, and, to the best of Mortgagor's knowledge, the financial statements of such guarantor, and the financial information contained therein was true and correct on the date the statements were issued and there has been no material adverse changes as of the date hereof;
- c. There are no suits or proceedings pending, or to the knowledge of Mortgagor threatened against or affecting Mortgagor, which, if adversely determined, would have a material adverse effect on the financial condition or business of Mortgagor or its ability to perform its obligations under this Mortgage, the Notes or any of the other Loan Documents executed by it, and there are no proceedings by or before any court, governmental commission, board, bureau, or other administrative agency pending or, to the knowledge of Mortgagor, threatened against Mortgagor, which, if adversely determined, would have a material adverse effect on the financial condition or business of Mortgagor or its ability to perform its obligations under this Mortgage, the Notes or any of the other Loan Documents executed by it;
- d. Mortgagor has filed all federal, state and local tax returns required to be filed by it (including, but not limited to, income and payroll tax returns) and other reports, which such Mortgagor is required by law, rule or regulation to file, and all taxes, assessments and related sums that are due and payable have been paid;
- e. Mortgagor is in compliance with all other statutes, ordinances, governmental rules and regulations to which it is subject, and has not and shall not fail to obtain any licenses, permits, franchises, or other governmental authorizations necessary to the ownership of its properties or to the conduct of its business, which violation or failure to obtain would materially adversely affect the business, prospects, profits, properties, condition (financial or otherwise) of the Mortgagor, or the security interest, liens, or rights of the Mortgagee in the Premises or the Collateral;
- f. Mortgagor is not a party to any indenture, loan or credit agreement, or to any lease or other agreement or instrument, or subject to any charter or limited liability company restriction which could have a material adverse effect on the business, properties, assets, operations, or conditions, financial or otherwise, of the Mortgagor, or the ability of the Mortgagor to carry out its obligations under this Mortgage, the Notes and the other Loan Documents executed by it. Mortgagor is not in default in any material respect in the

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performance, observance, or fulfillment of any of the obligations, covenants, or conditions contained in any agreement or instrument (material to its business) to which it is a party; and

g. Mortgagor has satisfied all judgments and is not in default with respect to any judgment, writ, injunction, decree, rule, or regulation of any court, arbitrator, or federal, state, municipal, or other governmental authority, commission, board, bureau, agency, or instrumentality, domestic or foreign. There are no judgments outstanding against Mortgagor or affecting the Premises.

h. All permits, licenses and approvals required by applicable law have been obtained to permit Mortgagor (and its tenants) to operate the Premises in the manner currently being used, and Mortgagor will (or cause its tenants to) maintain in effect all such permits, licenses and approvals, together with any other agreements necessary for the use and operation of the Premises.

i. Mortgagor shall at all times operate the Premises in accordance with all applicable restrictions and zoning ordinances.

j. There are no delinquent taxes, ground rents, water charges, sewer rents and other assessments (including assessments payable in future installments) or other outstanding charges materially and adversely affecting the Premises.

k. The Premises are, in all material respects, in compliance with, and used and occupied in accordance with, all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of governmental authorities affecting the Mortgagor or the Premises or any part thereof or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, including, without limitation, the Americans with Disabilities Act of 1990, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Mortgagor, at any time in force affecting the Property or any part thereof.

l. The Premises and the use thereof complies in all material respects with all applicable zoning, subdivision and land use laws, regulations and ordinances, and all applicable health, fire, building codes and parking laws and all other laws, statutes, codes, ordinances, rules and regulations applicable to the Premises. All certificates of occupancy or the equivalent, and all other required permits, licenses and certificates for the lawful use and operation of the Premises have been obtained and are current and in full force and effect. No legal proceedings are pending or, to the knowledge of Mortgagor, threatened with respect to the zoning of the Premises. Neither the zoning nor any other right to construct, use or operate the Premises is in any way dependent upon or related to any real estate other than the Premises.

m. All Improvements at the Premises including, without limitation, the roof and all structural components, plumbing systems, HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior doors, parking facilities, sidewalks and landscaping are in good condition and repair and free and clear of any damage or defective condition that would affect materially and adversely the value of the Premises as security for the Indebtedness Hereby Secured or the use for which the Premises is intended.

n. The Premises are served by public utilities and services in the surrounding community, including police and fire protection, public transportation, refuse removal and enforcement of safety codes which are adequate in relation to the premises and location on which the Premises are located, and no other utility facilities are necessary to meet the reasonable needs of the Premises as now used or presently contemplated. The Premises are serviced by public water and sewer systems which are adequate in relation to the premises and location on which the Premises are located. The Premises have parking and other amenities necessary

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for the use of the Premises which are adequate in relation to the premises and location on which the Premises are located. The Premises consist of one or more separate tax parcels which include no other property, and there are no delinquent Taxes or other outstanding charges adversely affecting the Premises. The Premises are not relied upon by, and does not rely upon, any building or improvement not part of the Premises to fulfill any zoning, building code or other governmental or municipal requirement for structural support or for the furnishing of any essential building systems or utilities, except to the extent of any valid and existing reciprocal easement agreements insured as separate insured parcels in the title insurance policy insuring the lien of this Mortgage. The design and as-built conditions of the Premises are such that surface and storm water does not accumulate on the Premises (except in facilities specifically designed for the same) and does not drain from the Premises across land of adjacent property owners in any manner which would have a material adverse effect on the Premises. Except as disclosed to Mortgagee, no part of the Premises is within a flood plain. All public roads and streets necessary for service of and access to the Premises for the current and contemplated uses thereof have been completed, are serviceable and are physically and legally open for use by the public. Any liquid or solid waste disposal, septic or sewer system located at the Premises is in good and safe condition and repair and in compliance with all applicable law.

16C. Financial Statements and Financial Information. The Mortgagor will furnish, or cause to be furnished, to Mortgagee, the following financial statements and financial information, in form acceptable to the Mortgagee:

- a. Complete copies of Mortgagor's annual federal and state tax returns, together with all schedules and attachments thereto within one hundred twenty (120) days after the end of each calendar year, commencing December 31, 2019; and
- b. An annual operating statement and updated rent roll for the Premises within one hundred twenty (120) days after the end of each calendar year, commencing December 31, 2019; and
- c. The annual updated financial statements of the guarantors of the Notes within one hundred twenty (120) days after the end of each calendar year, commencing December 31, 2019; and
- d. Complete copies of the guarantors' annual federal and state tax returns, together with all schedules and attachments thereto within one hundred twenty (120) days after the end of each calendar year, commencing December 31, 2019; and
- e. An annual compliance certificate addressed to Mortgagee executed by Mortgagor and demonstrating compliance with the financial covenants set forth in Section 16D and Section 16E below within one hundred twenty (120) days after the end of each calendar year, commencing December 31, 2019.
- f. An annual report reflecting all real properties owned by Khaldoun Fakhoury or by a limited liability company or other entity in which Khaldoun Fakhoury owns any equity interest therein, within one hundred twenty (120) days after the end of each calendar year, commencing December 31, 2019.

Mortgagor shall promptly provide the Mortgagee with such other information, financial or otherwise, concerning the Mortgagor, the Premises, the guarantors of the Notes or the Collateral, as the Mortgagee may reasonably request from time to time.

16D. Debt Service Coverage Ratio For Premises. During any calendar year ending on December 31 (a "Year"), Mortgagor shall not permit the Debt Service Coverage Ratio (as defined below) during such Year to be less than 1.25 to 1.00. As used herein, "Debt Service Coverage Ratio" means the Premises' Net Operating Income (as defined below) divided by the product of (i) twelve (12) and (ii) the monthly payment

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that would be necessary to pay the full amount of the Belmont Note in equal monthly payments of principal and interest over a period of twenty-five (25) years at the Interest Rate (as defined in the Belmont Note). All determinations by Mortgagee of the Debt Service Coverage Ratio shall be final and binding, absent manifest error. All amounts included in the foregoing calculations shall be determined in accordance with generally accepted accounting principles consistently applied. As used herein, "Net Operating Income" means the net income derived from operation of the Premises plus interest and depreciation for the twelve (12) month period immediately prior to the applicable date of determination based on the most recent year-end operating statement for the Premises. The Debt Service Coverage Ratio will be calculated based on a 25-year amortization period. The covenant is to be tested annually on an actual basis beginning December 31, 2019.

16E. Debt Service Coverage Ratio For Combined Premises. The term "Combined Premises" collectively means (i) the real properties owned by River Warehouse LLC and commonly known as 5601-5611 W. Belmont Avenue, Chicago, Illinois, 1761 W. Augusta Boulevard, Chicago, Illinois and 3030 N. Western Avenue, Chicago, Illinois, and (ii) the real property owned by Poplar Creek Plaza, LLC and commonly known as 1801-1861 W. Golf Road, Schaumburg, Illinois. The term "Poplar Note" means that certain Amended And Restated Promissory Note dated October 26, 2016 in the original principal amount of Five Million Four Hundred Fifteen Thousand Five Hundred Eleven and 41/100 Dollars (\$5,415,511.41) executed by Poplar Creek Plaza, LLC and payable to the order of Mortgagee in monthly installments of principal plus interest as therein described, together with any and all extensions, renewals, amendments, modifications, refinancings, conversions or consolidations thereof or thereto. During any calendar year ending on December 31 (a "Year"), Mortgagor shall not permit the Debt Service Coverage Ratio (as defined below) during such Year to be less than 1.25 to 1.00. As used herein, "Debt Service Coverage Ratio" means the Combined Premises' Net Operating Income (as defined below) divided by the product of (i) twelve (12) and (ii) the monthly payment that would be necessary to pay the full amount of the Notes and the Poplar Note in equal monthly payments of principal and interest over a period of twenty-five (25) years at the applicable interest rate set forth in the Notes and Poplar Note. All determinations by Mortgagee of the Debt Service Coverage Ratio shall be final and binding, absent manifest error. All amounts included in the foregoing calculations shall be determined in accordance with generally accepted accounting principles consistently applied. As used herein, "Net Operating Income" means the net income derived from operation of the Combined Premises plus interest and depreciation for the twelve (12) month period immediately prior to the applicable date of determination based on the most recent year-end operating statements for the Combined Premises. The Debt Service Coverage Ratio will be calculated based on a 25-year amortization period. This covenant is to be tested annually on an actual basis beginning December 31, 2019.

16F. Liquidity Covenant. Mortgagor covenants to Mortgagee that Khaldoun B. Khoury shall maintain, at all times, cash balances of greater than or equal to ten percent (10%) of the outstanding aggregate principal balance of the Loans, the loan evidenced by the Poplar Note, and all other loans made by the Mortgagee and guaranteed by him. This covenant is to be tested annually, beginning December 31, 2019.

17. Restrictions on Transfer. It shall be an immediate Event of Default hereunder if, without the prior written consent of the Mortgagee, any of the following shall occur, and in any event Mortgagee may condition its consent upon such increase in rate of interest payable upon the Indebtedness Hereby Secured, change in monthly payments thereon, change in maturity thereof and/or the payment of a reasonable fee, all as Mortgagee may in its sole discretion require:

- (a) If the Mortgagor shall create, effect, contract for, commit to or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Premises or any part thereof, or interest therein, excepting only sales or other disposition of Equipment no longer useful in connection with

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the operation of the Premises (herein called "Obsolete Equipment");

- (b) If the Mortgagor is a trustee, then if any beneficiary of the Mortgagor shall create, effect, contract for, commit to or consent to, or shall suffer or permit, any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of such beneficiary's beneficial interest in the Mortgagor;
- (c) If the Mortgagor is a corporation, or if any corporation is a beneficiary of a trustee mortgagor, then if any shareholder of such corporation shall create, effect contract for, commit to or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any such shareholder's shares in such corporation; provided that if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "Over The Counter" market, then this Section 17(c) shall be inapplicable;
- (d) If the Mortgagor is a partnership or joint venture, or if any beneficiary of a trustee Mortgagor is a partnership or joint venture, then if any general partner or joint venturer in such partnership or joint venture shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any partnership interest or joint venture interest, as the case may be, of such partner or joint venturer;
- (e) If there shall be any change in control (by way of transfers of stock ownership, partnership interest or otherwise) in any general partner which directly or indirectly controls or is a general partner of a partnership or joint venture beneficiary as described in Subsection 17(d) above; or
- (f) If the Mortgagor is a limited liability company, or if any limited liability company is a beneficiary of a trustee mortgagor, then if any member or manager of such limited liability company shall create, effect, contract for, commit to or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any such member's membership interests in such limited liability company;

(each event described in the foregoing Sections 17(a) thru (f), inclusive, being sometimes hereinafter referred to as "Unpermitted Transfer") in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided that the foregoing provisions of this Section 17 shall not apply (i) to liens securing the Indebtedness Hereby Secured, (ii) to the lien of current taxes and assessments not yet due and payable or (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests or membership interests as the case may be, in the Mortgagor or any beneficiary of a trustee Mortgagor by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives and/or committee. The provisions of this Section 17 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon the Premises, or such beneficial interest in, share of stock of or partnership or joint venture interest or membership interest in the Mortgagor or any beneficiary of a trustee Mortgagor.

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18. Uniform Commercial Code. This Mortgage constitutes a Security Agreement under the Illinois Uniform Commercial Code (as amended from time to time, the "Code") with respect to the Collateral, including, without limitation, any part of the Premises which may or might now or hereafter be or be deemed to be Equipment or Fixtures (all herein called "Collateral"); all of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this Section 18 shall not limit the generality or applicability of any other provisions of this Mortgage but shall be in addition thereto:

- (a) The Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof.
- (b) The Equipment is to be used by the Mortgagor solely for business purposes, being installed upon the Premises for Mortgagor's own use or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Premises.
- (c) The Equipment will be kept at the Real Estate and will not be removed therefrom without the consent of the Mortgagee (being the Secured Party as that term is used in the Code) by Mortgagor or any other person unless removed in the ordinary course of business; and the Equipment may be affixed to such Real Estate but will not be affixed to any other real estate.
- (d) The only persons having any interest in the Collateral are the Mortgagor and the Mortgagee.
- (e) No UCC financing statement covering any of the Collateral or any proceeds thereof is on file in any public office except those in favor of Mortgagee; and Mortgagor will at its own cost and expense, upon demand, furnish to the Mortgagee such further information and will execute and deliver to the Mortgagee such UCC financing statements and other documents in form satisfactory to the Mortgagee and will do all such acts and things as the Mortgagee may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness Hereby Secured, subject to no adverse liens or encumbrances, and the Mortgagor will pay the cost of filing the same or filing or recording such UCC financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Mortgagee to be necessary or desirable.
- (f) Upon any Event of Default hereunder (regardless of whether the Code has been enacted in the jurisdiction where rights or remedies are asserted) and at any time thereafter (such Event of Default not having previously been cured), the Mortgagee at its option may declare the Indebtedness Hereby Secured immediately due and payable, all as more fully set forth in Section 19 hereof, and thereupon Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as the Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and the Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to the

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Mortgagor's right of redemption in total or partial satisfaction of the Mortgagor's obligations as provided in the Code. The Mortgagee without removal may render the Collateral unusable and dispose of the Collateral on the Premises. The Mortgagee may require the Mortgagor to assemble the Collateral and make it available to the Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. The Mortgagee will give at least ten (10) days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified mail or equivalent, postage prepaid, to the address of Mortgagor determined as provided in Section 37 hereof, at least ten (10) days before the time of the sale or disposition. The Mortgagee may buy at any public sale, and if the Collateral is a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee may buy at any private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale of the Real Estate comprised within the Premises, the Collateral and Real Estate to be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied towards the Indebtedness Hereby Secured. The Mortgagee will account to the Mortgagor for any surplus realized on such disposition. The Mortgagor will remain liable for any deficiency remaining after any such disposition and will pay such deficiency to Mortgagee forthwith.

- (g) The remedies of the Mortgagee hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other remedies of the Mortgagee, including having the Collateral deemed part of the Real Estate upon any foreclosure thereof so long as any part of the Indebtedness Hereby Secured remains unsatisfied.
- (h) The terms and provisions contained in this Section 18 shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.
- (i) Mortgagor represents and warrants that:
- i. Mortgagor is the record owner of the Premises.
 - ii. Mortgagor's state of formation is the State of Illinois and its OID Number issued by the State of Illinois is accurately stated in Section 18A below, and
 - iii. Mortgagor's exact legal name is as set forth in the first paragraph of this Mortgage.
- (j) Mortgagor agrees that:
- i. If required by Mortgagee, Mortgagee is authorized to file a UCC financing statement against Mortgagor (and amendments thereto) describing the Collateral in any public filing office deemed necessary by Mortgagee;
 - ii. Where Collateral is in possession of a third party, Mortgagor will join with the Mortgagee in notifying the third party of the Mortgagee's interest and obtaining an

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acknowledgment from the third party that it is holding the Collateral for the benefit of Mortgagee;

iii. Mortgagor will cooperate with the Mortgagee in obtaining control with respect to Collateral consisting of deposit accounts, investment property, letter of credit rights and electronic chattel paper; and

iv. Until the Indebtedness Hereby Secured is paid in full, Mortgagor will not change the state of its organization, its organizational identification number or change its limited liability company name without giving the Mortgagee at least 30 days prior written notice in each instance.

18A. Fixture Filing. THIS MORTGAGE SHALL BE EFFECTIVE AS A UCC FINANCING STATEMENT FILED AS A FIXTURE FILING WITH RESPECT TO ALL GOODS WHICH ARE OR ARE TO BECOME FIXTURES RELATED TO THE PREMISES. FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE, THE FOLLOWING INFORMATION IS FURNISHED:

(a) The name and address of the Debtor (who is also the record owner of the Premises) is:

River Warehouse LLC	OID 07787294
1010 Hillside Drive	State of Formation: Illinois
Northbrook, Illinois 60062 (USA)	Type of Organization: Limited Liability Company

(b) The name and address of the Secured Party is:

Fifth Third Bank
222 S. Riverside Plaza
Chicago, Illinois 60606 (USA)

(c) Information concerning the security interest evidenced by this instrument may be obtained from the Secured Party at its address above.

(d) This document covers goods which are or are to become fixtures (including all billboards attached to the Premises or incorporated in any Improvements).

(e) Proceeds and products of Collateral are also covered.

19. Events of Default. If one or more of the following events (herein called "Events of Default") shall occur:

(a) If default is made in the due and punctual payment of any Note or the Poplar Note or any installment thereof, either principal or interest, as and when the same is due and payable; or

(b) If default is made in the making of any payment of any other monies required to be made under any Note or the Poplar Note or hereunder or in the payment of any other Indebtedness Hereby Secured; or

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- (c) If an Unpermitted Transfer as described in Section 17 hereof shall occur and be continuing without notice or period of grace of any kind; or
- (d) If default is made in the maintenance and delivery to Mortgagee of insurance required to be maintained and delivered hereunder, without notice or grace of any kind; or
- (e) If (and for the purpose of this Section 19(e) only, the term Mortgagor shall mean and include not only Mortgagor, but Poplar Creek Plaza, LLC and each other person who, as guarantor, comaker or otherwise, shall be or become liable for or obligated upon all or any part of the Indebtedness Hereby Secured or any of the covenants or agreements contained herein),
- (i) The Mortgagor shall file a voluntary petition for relief under the United States Bankruptcy Code (the "Bankruptcy Code") or any similar law, state or federal, now or hereafter in effect, or
- (ii) The Mortgagor shall file an answer admitting insolvency or inability to pay its debts, or
- (iii) Within sixty (60) days after the filing against Mortgagor of any involuntary proceedings under such Bankruptcy Code or similar law, such proceedings shall not have been vacated or stayed, or
- (iv) The Mortgagor shall be adjudicated a bankrupt, or a trustee or receiver shall be appointed for the Mortgagor or for all or the major part of the Mortgagor's property or the Premises, in any involuntary proceeding, or any court shall have taken jurisdiction of all or the major part of the Mortgagor's property or the Premises in any involuntary proceeding for the reorganization, dissolution, liquidation or winding up of the Mortgagor, and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within sixty (60) days, or
- (v) The Mortgagor shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its property, or the Premises; or
- (f) If any default shall exist under the provisions of Section 25 hereof or under the Assignment; or
- (g) If default shall continue for thirty (30) days after notice thereof by the Mortgagee to the Mortgagor in the due and punctual performance or observance of any other agreement or condition herein contained (except that said 30 day period shall be decreased to 10 days if Mortgagee's lien on the Premises or Mortgagee's rights or remedies under this Mortgage may be adversely affected by such default, as determined by Mortgagee in its sole discretion); or
- (h) If the Premises shall be abandoned; or

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- (i) If any default shall exist under the provisions of any of the other Loan Documents or any other document securing the Notes or other Indebtedness Hereby Secured, and such default not be cured within any applicable grace period, if any; or
- (j) If any representation, warranty, certification or statement made by Mortgagor, any guarantor, or any other obligor or grantor in connection with the Indebtedness Hereby Secured, shall prove untrue in any material respect; or
- (k) If any guarantor of any Note or the Poplar Note shall terminate, repudiate or revoke or disavow any of his or its obligations under his or its guaranty thereof or breach any of the terms of such guaranty or any individual guarantor of any Note or the Poplar Note shall die or become incompetent; or
- (l) If Mortgagor has entered into, or shall hereafter enter into, any property management agreement pertaining to the Premises, or any portion thereof, unless such agreement shall be made expressly subject and subordinate to this Mortgage pursuant to a written subordination agreement acceptable to Mortgagee; or
- (m) If this Mortgage, any Note or any other Loan Document for any reason ceases to be in full force and effect or ceases to be a legally valid, binding and enforceable obligation of Mortgagor, or any lien securing the Indebtedness Secured Hereby shall, in whole or in part, cease to be a perfected first priority lien, subject to the Permitted Encumbrances (as defined in Section 40 hereof); or
- (n) If any material adverse change shall occur in the financial condition, assets or liabilities of the Mortgagor or any guarantor of any Note, or in the Premises or the Mortgagee's lien therein or if Mortgagee shall, in good faith, become insecure with regard to the ability of Mortgagor to pay its obligations under any Note as they become due; or
- (o) If an event of default shall occur under (i) the Mortgage, Security Agreement and Fixture Filing of even date herewith granted by Mortgagor in favor of Mortgagee and recorded against the Mortgagor's real property commonly known as 1761 W. Augusta Blvd, Chicago, Illinois, (ii) the Mortgage, Security Agreement and Fixture Filing of even date herewith granted by Mortgagor in favor of Mortgagee and recorded against the Mortgagor's real property commonly known as 3030 N. Western Ave., Chicago, Illinois or (iii) the Junior Mortgage, Security Agreement and Fixture Filing of even date herewith granted by Poplar Creek Plaza, LLC in favor of Mortgagee and recorded against the real property owned by Poplar Creek Plaza, LLC and commonly known as 1801 1861 W. Golf Road, Schaumburg, Illinois;

then the Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of the Mortgagee hereunder, to declare, without further notice, all Indebtedness Hereby Secured to be immediately due and payable, whether or not such Event of Default is thereafter remedied by the Mortgagor, and the Mortgagee may immediately proceed to foreclose this Mortgage and/or exercise any right, power or remedy provided by this Mortgage, the Notes, the Assignment, any other Loan Documents, or by law or in equity conferred. Notwithstanding the foregoing, transactions evidenced by Rate Management Agreements shall be terminated or accelerated only in the manner described in such Rate Management Agreements.

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In any case in which under the provisions of this Mortgage, Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after judgment thereunder, and at all times until confirmation of sale, Mortgagor shall forthwith, upon demand of Mortgagee, surrender to Mortgagee and Mortgagee shall be entitled to take and upon Mortgagee's request to the court to be placed in actual possession of the Premises or any part thereof, personally, or by its agent or attorneys as provided in Subsections (b)(2) and (c) of Section 5/15-1701 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et seq. (such act, as amended or restated from time to time or any replacement statute, the "Act"). In such event Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain or may apply to the court in which a foreclosure is pending to be placed in possession of all or any part of said Premises, together with all documents, books, records, papers and accounts of Mortgagor or the then owner of the Premises relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may, as attorney in fact or agent of Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (c) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date(s) of the Indebtedness Hereby Secured and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness Hereby Secured, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to enter into any management, leasing or brokerage agreements covering the Premises; (e) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as to it may seem judicious; (f) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (g) to receive all of such avails, rents, issues and profits; hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor. Without limiting the generality of the foregoing provisions of this Section, Mortgagee shall also have all power, authority, immunities and duties as provided in Sections 5/15-1701 and 5/15-1703 of the Act.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which Mortgagee may or might incur by reason of its performance of any action authorized under this Section 19 and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements of Mortgagor. Should Mortgagee incur any such liability, loss or damage, by its performance or nonperformance of actions authorized by this Section, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest on any such amount at the Default Rate shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefore immediately upon demand.

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20. Foreclosure. When the Indebtedness Hereby Secured, or any part thereof, shall become due, whether by acceleration or otherwise, the Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness Hereby Secured or part thereof. In any suit or proceeding to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale, all expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title, as the Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree, the true conditions of the title to or the value of the Premises. All expenditures and expenses of the nature in this Section mentioned, and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by the Mortgagee in any litigation or proceedings affecting this Mortgage, the Notes, the other Loan Documents or the Premises, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by the Mortgagor, with interest thereon at the Default Rate. If the Premises consist of multiple parcels, Mortgagee, in its sole and absolute discretion, may elect to foreclose on less than all of the parcels, or may foreclose on the parcels at different times.

It is the intention of Mortgagor and Mortgagee that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Act, and with respect to such Act, Mortgagor agrees and covenants that Mortgagee shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference. If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 22 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

Without limiting the generality of the foregoing, all expenses incurred by Mortgagee which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Mortgage, shall be added to the Indebtedness Hereby Secured and/or by the judgment of foreclosure.

21. Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Section 20 hereof; Second, all other items which, under the terms hereof, constitute Indebtedness Hereby Secured additional to that evidenced by the Notes, with interest on such items as herein provided; Third, to interest and any premium remaining unpaid upon the Notes and any other fees and sums other than principal; Fourth, to the principal remaining unpaid upon the Notes; Fifth, to the interest and principal remaining unpaid upon the Poplar Note; and lastly, any overplus to the Mortgagor, and its successor or assigns, as their rights may appear. Mortgagee

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may obtain a judgment against Mortgagor for any deficiency remaining in the Indebtedness Hereby Secured due to Mortgagee after application of all amounts received from such foreclosure sale, and Mortgagor shall pay such deficiency to the Mortgagee forthwith.

22. Receiver. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of the Mortgagor at the time of application for such receiver, and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and the Mortgagee hereunder or any holder of the Notes may be appointed as such receiver. Such receiver shall have the power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when the Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period, the court may, from time to time, authorize the receiver to apply the net income from the Premises in his hands in payment in whole or in part of:

- (a) The Indebtedness Hereby Secured or the indebtedness secured by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made to the foreclosure sale; or
- (b) The deficiency in case of a sale and deficiency.

23. Insurance Upon Foreclosure. In case of an insured loss after foreclosure proceedings have been instituted, ~~the proceeds of any insurance policy or policies, if not applied in Restoring the Improvements,~~ as aforesaid, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. In the case of foreclosure of this Mortgage, the court, in its decree, may provide that the Mortgagee's clause attached to each of the casualty insurance policies may be canceled and that the decree creditor may cause a new loss clause to be attached to each of said casualty insurance policies making the loss thereunder payable to said decree creditors; and any such foreclosure decree may further provide that in case of one or more redemptions under said decree, pursuant to the statutes in each such case made and provided, then in every such case, each and every successive redemtor may cause the preceding loss clause attached to each casualty insurance policy to be canceled and a new loss clause to be attached thereto, making the loss thereunder payable to such redemtor. In the event of foreclosure sale, the Mortgagee is hereby authorized, without the consent of the Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take other steps as the Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of said insurance policies.

24. Waiver. The Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatever claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or after such sale or sales claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof. THE MORTGAGOR HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS OF

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REINSTATEMENT AND REDEMPTION FROM SALE UNDER ANY ORDER OR DECREE OF FORECLOSURE OF THIS MORTGAGE, ON ITS OWN BEHALF, ON BEHALF OF THE BENEFICIARIES OF MORTGAGOR, AND ON BEHALF OF ALL OTHER PERSONS CLAIMING OR HAVING AN INTEREST (DIRECT OR INDIRECT) BY, THROUGH OR UNDER MORTGAGOR, AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES SUBSEQUENT TO THE DATE HEREOF, IT BEING THE INTENT HEREOF THAT ANY AND ALL SUCH RIGHTS OF REDEMPTION OF THE MORTGAGOR AND OF ALL OTHER PERSONS ARE AND SHALL BE DEEMED TO BE HEREBY WAIVED TO THE FULL EXTENT PERMITTED BY THE PROVISIONS OF CHAPTER 735, SECTION 5/15-1601 OF THE ILLINOIS COMPILED STATUTES OR OTHER APPLICABLE LAW OR REPLACEMENT STATUTES. The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power or remedy herein or otherwise granted or delegated to the Mortgagee, but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted.

25. Assignment. As further security for the Indebtedness Hereby Secured, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee a separate assignment of rents and of lessor's interest in leases (herein called the "Assignment") dated as of the date hereof, wherein and whereby, among other things, the Mortgagor has assigned to the Mortgagee all of the rents, issues and profits and/of any and all leases and/or rights of management of the Premises, all as therein more specifically set forth, which said Assignment is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length. The Mortgagor agrees that it will duly perform and observe all of the terms and provisions on its part to be performed and observed under the Assignment. The Mortgagor further agrees that it will duly perform and observe all the terms and provisions on lessor's part to be performed and observed under any and all leases of the Premises to the end that no default on the part of lessor shall exist thereunder. Nothing herein contained shall be deemed to obligate the Mortgagee to perform or discharge any obligation, duty or liability of lessor under any lease of the Premises, and the Mortgagor shall and does hereby indemnify and hold the Mortgagee harmless from any and all liability, loss or damage which the Mortgagee may or might incur under any lease of the Premises or by reason of the Assignment; and any and all such liability, loss or damage incurred by the Mortgagee, together with the costs and expenses, including reasonable attorneys' fees, incurred by the Mortgagee in the defense of any claims or demands therefor (whether successful or not), shall be so much additional Indebtedness Hereby Secured, and the Mortgagor shall reimburse the Mortgagee therefor on demand, together with interest at the Default Rate from the date of demand to the date of payment.

Mortgagor will not (i) execute any further assignment of any of its right, title or interest in any lease or rents and profits of the Premises (except to Mortgagee); or (ii) terminate or consent to the cancellation or surrender of any lease of the Premises without the prior written consent of Mortgagee; or (iii) terminate or consent to the consent or cancellation or surrender of any other lease of the Premises or of any part thereof, now existing or hereafter to be made; or (iv) modify any lease of the Premises without the prior written consent of Mortgagee; or (v) accept prepayments in excess of one month of any installments of rent to become due under any of said leases, except prepayments in the nature of security for the performance by a lessee of its obligations thereunder; or (vi) in any other manner impair the value of the Premises or the security of this Mortgage; or (vii) execute any lease of all or any portion of the Premises without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld; or (viii) permit any lease of the Premises or any part thereof to become subordinate to any lien other than the lien of this Mortgage. All leases of the Premises or any part thereof shall be subject to the approval of Mortgagee.

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26. Mortgagee in Possession. Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises by the Mortgagee.

27. Business Loans. It is understood and agreed that the Loans are business loans within the purview of Section 205/4 of Chapter 815 of Illinois Compiled Statutes (or any substitute, amended, or replacement statutes).

28. Environmental Conditions. Except as previously disclosed in writing by Mortgagor to Mortgagee (including delivery of any environmental reports or assessments with respect to the Premises), Mortgagor represents that: (i) Mortgagor has not used Hazardous Materials (as defined hereinafter) on, from or affecting the Premises in any manner which violates federal, State of Illinois or any Illinois unit of local government's laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best knowledge of Mortgagor, no prior owner of the Premises or any tenant, subtenant, occupant, prior tenant, prior subtenant or prior occupant has used Hazardous Materials on, from or affecting the Premises in any manner which violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials; (ii) Mortgagor has never received any notice of any violations of federal, State of Illinois or Illinois local governmental unit laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best knowledge of Mortgagor, there have been no actions commenced or threatened by any party for noncompliance. For purposes of this Mortgage, "Hazardous materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Hazardous Substances Transportation Act; the Resource Conservation and Recovery Act (including but not limited to Subtitle I relating to underground storage tanks); the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Occupational Safety and Health Act; the Federal Water Pollution Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Endangered Species Act; the National Environmental Policy Act; and the River and Harbors Appropriation Act, and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local governmental law, ordinance, rule, or regulation. Mortgagor shall keep or cause the Premises to be kept free of Hazardous Materials, and, without limiting the foregoing, Mortgagor shall not cause or permit the Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor a release of Hazardous Materials onto the Premises or onto any other property, and Mortgagor shall use its best efforts to prevent any intentional act or omission on the part of any tenant, subtenant or occupant from releasing Hazardous Materials onto the Premises or onto any other property.

Mortgagor shall not cause or permit the Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor a release of Hazardous Materials onto the Premises or onto any other property, and Mortgagor shall use commercially reasonable efforts to prevent any intentional act or omission on the part of any tenant, subtenant or occupant from releasing Hazardous Materials onto the Premises or onto any other property.

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Mortgagor shall (i) conduct and **complete** all investigations, studies, **sampling** and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials, on, under, from or affecting the Premises in accordance with all applicable federal, state and local laws, ordinances, rules, regulations and policies, to the reasonable satisfaction of Mortgagee, and in accordance with the orders and directives of all federal, state, and local governmental authorities and (ii) defend, indemnify and hold harmless Mortgagee, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (a) the presence, disposal, release or threatened release of any Hazardous Materials on, over, under, from, or affecting the Premises or the soil, water, vegetation, buildings, personal property, persons or animals thereon; (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (c) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials, and/or (d) any violation of laws, orders, regulations, or requirements of Mortgagee, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorneys' and consultants' fees, investigation and laboratory fees, court costs, and litigation expenses.

29. Contests. Notwithstanding anything to the contrary herein contained, Mortgagor shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Premises or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Premises (all herein called "Contested Liens"), and no Contested Lien shall constitute an Event of Default hereunder, if, but only if:

- (a) Mortgagor shall forthwith give notice of any Contested Lien to Mortgagee at the time the same shall be asserted;
- (b) Mortgagor shall deposit with Mortgagee the full amount (herein called the "Lien Amount") of such Contested Lien, together with such amount as Mortgagee may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment Mortgagor may furnish to Mortgagee a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to Mortgagee;
- (c) Mortgagor shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit Mortgagee to be represented in any such contest and shall pay all expenses incurred by Mortgagee in so doing, including fees and expenses of Mortgagee's counsel (all of which shall constitute so much additional Indebtedness Hereby Secured bearing interest at the Default Rate until paid, and payable upon demand);
- (d) Mortgagor shall pay such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to Mortgagor, or (ii) forthwith upon demand by Mortgagee if, in the opinion of Mortgagee, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if Mortgagor shall fail so to do, Mortgagee may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Mortgagee to obtain the release and discharge of such liens; and any amount expended by Mortgagee in so doing shall be so much additional Indebtedness Hereby Secured bearing interest at the Default Rate until paid, and payable upon demand;

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and provided further that Mortgagee may in such case use and apply for the purpose monies deposited as provided in Subsection 29(b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

30. Title in Mortgagor's Successors. In the event that the ownership of the Premises or any part thereof becomes vested in a person or persons other than the Mortgagor, the Mortgagee may, without notice to the Mortgagor, deal with such successor or successors in interest of the Mortgagor with reference to this Mortgage and the Indebtedness Hereby Secured in the same manner as with the Mortgagor. The Mortgagor will give immediate written notice to the Mortgagee of any conveyance, transfer or change of ownership of the Premises, but nothing in this Section 30 contained shall vary or negate the provisions of Section 17 hereof.

31. Rights Cumulative. Each right, power and remedy herein conferred upon the Mortgagee under this Mortgage is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of the Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

32. Successors and Assigns. This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon the Mortgagor and the successors and assigns of the Mortgagor (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein), and shall inure to the benefit of the Mortgagee and its successors and assigns. Wherever herein the Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Notes, whether so expressed or not; and each such from time to time holder of the Notes shall have and enjoy all of the rights, privileges, powers, options, benefits and security afforded hereby and hereunder, and may enforce every and all of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such from time to time holder was herein by name specifically granted such rights, privileges, powers, options, benefits and security and was herein by name designated the Mortgagee.

33. Provisions Severable. The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

34. Waiver of Defense. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Notes.

35. Captions and Pronouns. The captions and headings of the various sections of this Mortgage are for convenience only, and not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular number shall include the plural, the plural shall include the singular and the masculine, feminine and neuter genders shall be freely interchangeable.

36. Maximum Indebtedness Hereby Secured and Future Advances. In no event shall the Indebtedness Hereby Secured exceed two (2) times the stated aggregate principal amount of the Notes and the Poplar Note. This Mortgage secures the repayment of all advances that Mortgagee may now or hereafter extend to the Mortgagor under the Notes or any of the other Loan Documents, and secures not only existing

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indebtedness, but also secures future advances, with interest thereon, whether such advances are obligatory or to be made at the option of Mortgagee to the same extent as if such future advances were made on the date of the execution of this Mortgage, and although there may be no indebtedness outstanding at the time any advance is made. The lien of this Mortgage shall be valid as to all such indebtedness and future advances from the time this Mortgage is filed for record in the recorder's office of the county where the Premises are located. The total amount of Indebtedness Hereby Secured may increase or decrease from time to time, as provided in the Notes, the Poplar Note and other Loan Documents, and any disbursements which Mortgagee may make under this Mortgage or any other Loan Document (e.g., for payment of taxes, insurance premiums or other advances to protect Mortgagee's liens and security interests, as permitted hereby, or other disbursements made by Mortgagee pursuant to the terms hereof) shall be additional Indebtedness Hereby Secured secured by this Mortgage, subject to the aforesaid limit on the maximum Indebtedness Hereby Secured set forth in the first sentence of this Section 36.

37. Addresses and Notices. Any notice or other communication required or permitted to be given shall be in writing addressed to the respective party as set forth below and may be personally served, telecopied or sent by overnight courier or U.S. Mail and shall be deemed given: (a) if served in person, when served; (b) if telecopied, on the date of transmission if before 5:00 p.m. (Chicago time) on a business day; provided that a hard copy of such notice is also sent pursuant to clause (c) or (d) below; (c) if by overnight courier, on the first business day after delivery to the courier; or (d) if by U.S. Mail, on the fourth (4th) day after deposit in the mail, postage prepaid, certified mail, return receipt requested.

If to Mortgagor:

River Warehouse LLC
1010 Hillside Drive
Northbrook, Illinois 60062
Attn: Khalidoun Fakhoury
Fax No. _____

with a copy to:

Gomberg, Sharfman, P.C.
208 S. LaSalle Street, Suite 1410
Chicago, Illinois 60604
Attn: Robert M. Gomberg
Fax: 312.332.4083

If to Mortgagee:

Fifth Third Bank
222 S. Riverside Plaza
Chicago, Illinois 60606
Attn: Sung Park, Vice President
Fax No. 847.745.3502

with a copy to:

Cohen, Salk & Huvard, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062
Attn: Bennett L. Cohen
Fax No. 847.480.7882

or to either party at such other addresses as such party may designate in a written notice to the other party. "Business Day" shall mean any day on which commercial banks in Cincinnati, Ohio are required by law to be open for business.

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38. Mortgagor Will Not Discriminate. Mortgagor covenants and agrees at all times to be in full compliance with provisions of law prohibiting discrimination on the basis of race, color, creed or national origin including, but not limited to, the requirements of Title VIII of the 1968 Civil Rights Act, or any substitute, amended or replacement Acts.

39. Interest at the Default Rate. Without limiting the generality of any provision herein or in the Notes contained, from and after the occurrence of any Event of Default hereunder, all of the Indebtedness Hereby Secured shall bear interest at the Default Rate.

40. Condition of Title. Mortgagor represents and warrants to Mortgagee that Mortgagor holds good and marketable title of record to the Real Estate as so described on **Exhibit A** hereto, in fee simple, free and clear of all liens and encumbrances other than those set forth in the title insurance policy issued in favor of, and accepted by, Mortgagee in connection with this Mortgage (the "Permitted Encumbrances"). None of the Permitted Encumbrances will materially and adversely affect (i) Mortgagor's (or any other obligor's) ability to pay any indebtedness Hereby Secured, (ii) the use of the Premises for the use currently being made thereof, (iii) the operation of the Premises, or (iv) the value of the Premises.

Mortgagor warrants and will forever defend the title to the Real Estate against the claims of all persons. In the event any action or proceeding is commenced that questions Mortgagor's title or the interest of Mortgagee under this Mortgage, Mortgagor shall defend the action at Mortgagor's expense. Mortgagor may be the nominal party in such proceeding, but Mortgagee shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Mortgagee's own choice, at Mortgagor's expense, and Mortgagor will deliver, or cause to be delivered, to Mortgagee, such instruments as Mortgagee may request from time to time to permit such participation.

41. Assignment by Mortgagee. Mortgagee shall have the unfettered right to assign or transfer its rights under this Mortgage and the other Loan Documents. Any assignee or transferee shall be entitled to all the benefits afforded Mortgagee under this Mortgage and the other Loan Documents. Mortgagor hereby agrees that, upon assignment of the Loan Documents by Mortgagee, Mortgagee (as assignor thereunder) shall have no obligations or liabilities under the Loan Documents, the assignee thereof shall be substituted as the lender under the Loan Documents for all purposes and Mortgagor shall look solely to said assignee for the performance of any obligations of the lender under the Loan Documents.

42. Relationship of Parties. The relationship of Mortgagee and Mortgagor is solely that of debtor and creditor. Mortgagor acknowledges and agrees that Mortgagee has no fiduciary or other special relationship with Mortgagor, and no term or condition of any of the Loan Documents shall be construed to be other than that of debtor and creditor. Mortgagor represents and acknowledges that the Loan Documents do not provide for any shared appreciation rights or other equity participation interest.

43. Indemnity. Mortgagor hereby covenants and agrees that no liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers granted to Mortgagee in this Mortgage, and Mortgagor hereby expressly waives and releases any such liability. Mortgagor shall indemnify and save Mortgagee harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") of whatever kind or nature which may be imposed on, incurred by or asserted against Mortgagee at any time by any third party which relate to or arise from: (a) any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Mortgagee may or does become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; (b) the offer for sale or sale of all or any portion of the Premises; and (c) the ownership, leasing, use, operation or maintenance of the Premises, if such Claims relate to or arise from actions taken prior to the surrender

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of possession of the Premises to Mortgagee in accordance with the terms of this Mortgage; provided, however, that Mortgagor shall not be obligated to indemnify or hold Mortgagee harmless from and against any Claims directly arising from the gross negligence or willful misconduct of Mortgagee. All costs provided for herein and paid for by Mortgagee shall be so much additional Indebtedness Hereby Secured and shall become immediately due and payable upon demand by Mortgagee and with interest thereon from the date incurred by Mortgagee until paid at the Default Rate.

44. Amendments and Waivers. Except as otherwise provided herein, no amendment, modification, termination or waiver of any provision of this Mortgage, the Notes or any other Loan Document, or consent to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by Mortgagee and any other party to be charged. Each amendment, modification, termination or waiver shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Mortgagor in any case shall entitle Mortgagor to any other or further notice or demand in similar or other circumstances.

45. Governing Law; Litigation. The place of the location of the Premises being the State of Illinois, this Mortgage shall be construed and enforced according to the laws of that State. To the extent that this Mortgage may operate as a security agreement under the Code, Mortgagee shall have all rights and remedies conferred therein for the benefit of a secured party, as such term is defined therein. TO THE MAXIMUM EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MORTGAGE SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURT LOCATED IN THE COUNTY WHERE THE PREMISES ARE LOCATED, OR, AT THE SOLE OPTION OF MORTGAGEE, IN ANY OTHER COURT IN WHICH MORTGAGEE SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

46. JURY WAIVER. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF MORTGAGOR AND MORTGAGEE (BY ITS ACCEPTANCE OF THIS MORTGAGE) HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MORTGAGE, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF MORTGAGOR AND MORTGAGEE WITH RESPECT TO THIS MORTGAGE, OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF MORTGAGOR, AND MORTGAGEE (BY ITS ACCEPTANCE OF THIS MORTGAGE) HEREBY AGREES THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT MORTGAGOR OR MORTGAGEE MAY FILE A COPY OF THIS MORTGAGE WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OF MORTGAGOR AND MORTGAGEE TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage all on and as of the day, month and year first above written.

MORTGAGOR:

RIVER WAREHOUSE LLC,
an Illinois limited liability company

By: 
Name: Khalidou Fakhoury
Title: Manager

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ACKNOWLEDGMENT OF SIGNATURE

STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

The undersigned, a Notary Public in and for the said State aforesaid, do hereby certify that Khaldoun Fakhoury, personally known to me as the Manager of RIVER WAREHOUSE LLC, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as the Manager of said limited liability company, as his own and free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 2019.

 Notary Public

My Commission Expires: _____
 (Affix Seal)

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S. O. attached

A. A. Newlin Script

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ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange)

On August 7, 2019 before me, Lori Prescott, Notary Public
(insert name and title of the officer)

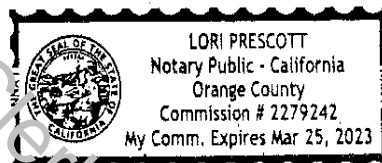
personally appeared Khadun Fakhoury
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Lori Prescott*

(Seal)



Property Clerk's Office

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EXHIBIT A

Legal Description

LOTS 1, 2, 3 AND 4 IN BLOCK 1 IN SCHERENBERG'S SUBDIVISION OF LOT 1 IN KING AND PATTERSON'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 13-29-207-007-0000

Address: 5601-5611 W. Belmont Avenue, Chicago, Illinois 60634

Property of Cook County Clerk's Office

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EXHIBIT B

INSURANCE REQUIREMENTS

1. All insurance policies referred to herein shall be in form and substance acceptable to FIFTH THIRD BANK ("FTB").
2. FTB must receive evidence/certificates of insurance at least ten (10) business days prior to closing. Original policies must be provided to FTB as soon as they are available from insurers. Certified copies should be available within 60 to 90 days.
3. Proof of coverage must be on an ACORD 28 - EVIDENCE OF PROPERTY INSURANCE form 2003/10. Liability insurance must be written on ACORD 25 or its equivalent.

NOTE: Please remove any "endeavor to" and "but failure to mail such notice shall impose no obligation of any kind upon the company, its agents and representatives" language as it relates to notices. Initial next to any deletions on the certificates.

4. All property policies shall contain a standard mortgage clause in favor of FTB and shall provide for a thirty (30) day written notice to FTB of any material change or cancellation. Certificates with disclaimers will NOT be accepted.
5. The borrower must be named additional insured.
6. Property & Builders Risk certificates must show FTB as First Mortgagee and Lender's Loss Payee as follows:

Fifth Third Bank
222 S. Riverside Plaza
Chicago, Illinois 60606
Attn: Loan Documentation Department

(FTB may be shown as "Mortgagee and Lender's Loss Payee As Their Interests May Appear" until the insurance agent received release of interest from the prior lender. At that time, the insurance policies will need to be endorsed to show FTB as First Mortgagee and Lender's Loss Payee.)

7. The property address must be identified as the insured property.
5601-5611 W. Belmont Avenue, Chicago, IL 60634
8. All insurance companies must have the following ratings from AM Best's Rating Guide:
Policy Rating A Financial Rating VIII
9. The insurance documentation must be signed by an authorized representative.

Specific Requirements:

1. If the property policy is a blanket policy or limit, FTB must receive a schedule of the amount allocated to the property/rents or the amounts allocated to the property must be indicated on the certificate.
2. Coverage must be on an "all risk" (Special Perils), 100% replacement cost basis without deduction for foundations and footings, and WITHOUT co-insurance. The co-insurance must be waived or an Agreed Amount endorsement must be included and either "No Co-insurance" or "Agreed Amount" must be indicated on the certificate.

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3. Ordinance or Law coverage **providing** for demolition and increased cost of construction, must be provided and indicated on the certificate.
4. Other coverages such as **earthquake**, boiler and machinery (which **includes** the mechanics of the building, such as elevators), and flood **will** be required when these risks are present.
5. Rent Loss or Business Income coverage shall be in an amount equal to **100%** of the projected annual rents or revenue with a minimum **period** of indemnity of 12 months, or such **greater** period as FTB may require. This coverage needs to be written **on a** Gross Rental Income, Gross Profits or **Extended** Period of Indemnity form, not on an actual loss **sustained** basis which may terminate as soon **as** the premises are tenantable or operational.
6. FTB must be named as **Additional Insured** for all general liability coverage, with a minimum limit of \$2,000,000 for any one occurrence.

Additional Requirements - Construction Loans:

1. Coverage must be **All Risk Builders Risk** Course of Construction, including earthquake and flood when these risks are present. The **Builders Risk** insurance amount must cover at **least** 100% of hard costs and 100% of the soft costs.
2. Under the Evidence of **Property** form - the builders risk coverage should **make** the following statement:

“The General Contractor (name) and all subcontractors of **any** tier are named insured with respect to **builders’** risk.”
3. Rent coverage must be **100%** of the anticipated annual rents (assuming **full** occupancy) written on a delayed income basis. The policy **shall** allow for partial or full occupancy.
4. Coverage should also include **permission to occupy** clause.

Cook County Clerk's Office